	Case 2:10-cv-01415-JCM-RJJ Document 24 Filed 03/08/11 Page 1 of 2
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8	UNITED STATES DISTRICT COURT
9	DISTRICT OF NEVADA
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11	WILLIE T. SMITH,) #91949)
12	Plaintiff,) 2:10-cv-01415-JCM-RJJ
13	vs. ORDER
14	DWIGHT W. NEVENS, et al.,
15	Defendants.
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17	On February 4, 2011, the court issued an amended screening order that allowed certain
18	of plaintiff's claims to proceed, dismissed others, and dismissed certain defendants (docket #8). Before
19	the court is plaintiff's motion for district judge to reconsider screening order (docket #14).
20	Where a ruling has resulted in final judgment or order, a motion for reconsideration ma
21	be construed either as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedur
22	59(e), or as a motion for relief from judgment pursuant to Federal Rule 60(b). <i>School Dist. No. 1</i>
23	Multnomah County v. AC&S, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993), cert. denied 512 U.S. 1236 (1994)
24	Under Fed. R. Civ. P. 60(b) the court may relieve a party from a final judgment or order
25	for the following reasons:
26	(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been
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discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.

Motions to reconsider are generally left to the discretion of the trial court. *See Combs v. Nick Garin Trucking*, 825 F.2d 437, 441 (D.C. Cir. 1987). In order to succeed on a motion to reconsider, a party must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision. *See Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 (E.D. Cal. 1986), *aff'd in part and rev'd in part on other grounds* 828 F.2d 514 (9th Cir. 1987). Rule 59(e) of the Federal Rules of Civil Procedure provides that any "motion to alter or amend a judgment shall be filed no later than 28 days after entry of the judgment." Furthermore, a motion under Fed. R. Civ. P. 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *Herbst v. Cook*, 260 F.3d 1039, 1044 (9th Cir. 2001), *quoting McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999).

In his brief motion, plaintiff claims that the court confused some of his allegations in counts II and III (docket #14). Plaintiff has failed to make an adequate showing under either Rule 60(b) or 59(e) that this court's order dismissing certain claims should be reversed.

IT IS THEREFORE ORDERED that plaintiff's motion for district judge to reconsider screening order (docket #14) is **DENIED**.

Dated this 8th day of March, 2011.

UNITED STATES DISTRICT JUDGE